

Serial No. 10/773,859
Amendment dated April 4, 2006
Response to Office Action dated October 7, 2005

REMARKS

**Reconsideration And Allowance
Are Respectfully Requested.**

Claims 1-21 are currently pending. No claims have been amended. Claim 21 has been added. No claims have been canceled. No new matter has been added. Reconsideration is respectfully requested.

Despite the Applicants' assertions to the contrary, the rejection presented in the original Office Action has been maintained. In particular, claims 1-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,248,342 to Trogolo et al. (Trogolo) in view of U.S. Patent Nos. 5,931,354, 5,962,564 and 6,075,078 to Braud et al. ("Braud patents"). Applicants have maintained these claims without amendment and respectfully request the Examiner reconsider the prior position regarding patentability.

In particular, claims 1 and 11 respectively define a flooring plank and a method for forming a flooring plank in a manner which inhibits the growth of mold, mildew, bacteria or unwanted biological agents adjacent and underside of the flooring plank. The Office Action contends the claimed flooring plank and method are obvious based upon the disclosures of Trogolo and the Braud patents. However, neither Trogolo nor the Braud patents consider the nuances of constructing a flooring plank as claimed in accordance with the present invention. The Office Action correctly points out that Trogolo does teach that it is known in the art to manufacture high-pressure laminates with an antimicrobial agent and then secure the paper onto a substrate.

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However, Trogolo does not teach how the structures to which the antimicrobial high-pressure laminate should be formed so as to take advantage of the antimicrobial agent secured therein in a manner specifically suited for the use of the final product.

In addition, the Braud patents do teach that it is known in the art to use an antimicrobial agent in an adhesive. Braud further goes on to state the adhesive may be utilized in flooring products. However, Braud does not disclose or suggest the use of the adhesive in the manufacture of flooring planks constructed from high-pressure decorative laminate.

As discussed previously, the use of antimicrobial agents within the backing layer of the claimed flooring plank substantially reduces the potential development of undesired biological agents adjacent the unexposed, and inaccessible, underside of the flooring plank. As those skilled in the art certainly appreciate, it is relatively easy to maintain the upper surface of the flooring plank clean and substantially free of undesirable biological agents. However, it is virtually impossible to ensure the underside of the flooring plank is maintained free of unwanted biological agents. The application of antimicrobial agents within the backing layer of the flooring plank as claimed in accordance with the present invention provides a large surface for combating the undesirable biological agents in the vicinity of the flooring planks.

Neither Trogolo nor the Braud patents appreciate this fact. While both broadly consider the concepts of using antimicrobial agents in various products, neither patent appreciates the importance of including these antimicrobial agents in the backing layer of a high-pressure decorative laminate flooring plank. If in fact the modification of high-pressure decorative laminate flooring planks with a backing layer having an antimicrobial agent incorporated therein were as obvious as

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suggested by the Examiner, the Examiner would most certainly have been able to find some sort of prior art suggesting the modification proposed in accordance with the outstanding Office Action. However, no prior art exists as the claimed invention is in fact novel and unobvious.

Both Trogolo and the Braud patents are further deficient in meeting the pending claims because they fail to disclose or suggest the structure of a decorative laminate flooring plank as claimed. In particular, neither of these references disclose nor suggest that a decorative laminate flooring plank would include a decorative upper surface, a core layer and a backing layer secured to the underside of the core layer. Trogolo just discloses that high-pressure decorative laminate may be secured to a substrate to form antimicrobial tabletops, cabinets, wall paneling and countertops, while the Braud patents disclose the use of an adhesive for many laminates. Neither of these references disclose nor suggest the claimed flooring plank structure of the present invention.

With the foregoing in mind, Applicants reiterate the opinion that claims 1 and 11 overcome the prior art of record and respectfully request the outstanding rejections be withdrawn. As to those claims dependent upon independent claims 1 and 11, they are believed to overcome the prior art of record for the reasons presented above. Further, and with regard to claims 4, 5, 6, 7, 8, 9, 10, 14, 15, 16, 17, 18, 19, and 20, these relate to very specific components of the claimed invention. However, and as mention in the prior response, these limitations have not been addressed in the Office Action. If the Examiner chooses to maintain the outstanding rejection, it is respectfully requested that prior art supporting the rejection of these claims be cited.

In addition to claims 1-20, Applicants have added new independent claim 21. This independent claim defines a flooring plank having a decorative upper surface and a core layer

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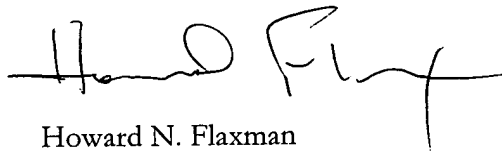
providing support and stability to the flooring plank. The core layer includes a plurality of edges adapted for engagement with adjacent flooring planks during the installation of flooring planks. The flooring plank further includes a backing layer secured to the underside of the core layer. The backing layer includes at least one sheet of resin impregnated paper. The paper is impregnated on one side with a first resin and impregnated on an opposite side with a second resin, different from the first resin. The second resin includes an antimicrobial agent acting upon unwanted biological organisms so as to inhibit the growth of mold, mildew, bacteria or other unwanted bacterial agents adjacent and underside of the flooring plank.

As mentioned above, it is Applicants' opinion this claim overcomes the prior art of record, because the prior art of record fails to disclose a backing layer for a flooring plank which includes an antimicrobial agent incorporated therein. In addition, the present application specifically sets forth that the resin impregnated paper of the backing layer includes one side with a first resin and an opposite side with a second resin, the second resin including the antimicrobial agent. This is also not disclosed or suggested in the prior art and it is Applicants' opinion this claim overcomes the prior art of record.

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It is believed that this case is in condition for allowance and reconsideration thereof and early issuance is respectfully requested. If it is felt that an interview would expedite prosecution of this application, please do not hesitate to contact applicants' representative at the below number.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Howard Flaxman". The signature is fluid and cursive, with the first name "Howard" and last name "Flaxman" clearly distinguishable.

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Docket No. WIL-41099